IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(211)

FAO-3351-2016 (O&M)
Date of Decision:-09.11.2022.

Cholamandalam MS General Insurance Company Ltd.

……Appellant.

Versus

Daljit Kaur and others

……Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

****

Present: Mr. Rajneesh Malhotra, Ms. Yagyashree Singh and Ms. Mehar Khaneja, Advocate for the appellant.

Mr. Ranjit Singh, Advocate for respondent Nos.1 to 5.

Mr. Manpreet Singh, Advocate for respondent No.7.

****

ALOK JAIN, J. (Oral)

CM-12189-C-II-2016

This is an application for condonation of delay of 09 days in filing the appeal.

For the reasons mentioned in the application, same is allowed and delay of 09 days in filing the appeal stands condoned.

FAO-3351-2016

The present appeal has been filed against the MACT Award dated 08.01.2016 whereby respondent Nos.1 to 6 have been awarded compensation of ₹ 43,35,390.50/- along with interest @ 6% p.a. from the date of filing the petition till its realization.

Counsel for the appellant-Insurance Company, has argued that as regards calculation of compensation is concerned in which the annual income of the deceased is taken at ₹ 3,31,860/- is without deducting the tax paid. He relies upon the judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009,*** to buttress his arguments. Relevant portion of Para 61 of the said judgment is reproduced hereinbelow:-

> *"(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

Counsel for the claimant has vehemently argued to distinguish the said judgment, however, it is clear that the tax paid has to be deducted from the total income for calculation afresh. The fresh calculations on the said basis including the 10% increase after expiry of three years is also done which is as under:-

Income	3,31,855/-
Tax (minus)	-53,274/-
=	2,78,581/-
Future @ 25%	+ 69,646/-

=	3,48,227/-
Deduction ¼ Remaining ¾	 3,48,227 x 3/4 = 2,61,171/- (Annual)
Multiplier-13 261171 x 13	 33,95,223/-
Loss of Estate	16,500/-
Funeral Expenses	16,500/-
Consortium 4 claimants @ 44,000/- each	1,76,000/-
Total	**36,04,223/-**

The counsel for the respondents has no objection to the said calculation. Accordingly, with the above modification, the Award is modified to the above extent.

Appeal stands disposed of.

CM-12190-CII-2016

Since the main appeal has been disposed of, no order is required to be passed in this application and the same is disposed of as such.

(ALOK JAIN)
JUDGE

November 09, 2022.
Sandeep

Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No